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APPLICATION NO.		FILING DATE		FIRST NAMED INVENTOR  Yoichi Oikawa	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,606		08/09/2001			837.1969	5250
	21171	7590	90 10/17/2003		EXAMINER	
	STAAS & HALSEY LLP SUITE 700				PRASAD, CHANDRIKA	
		1201 NEW YORK AVENUE, N.W.			ART UNIT	PAPER NUMBER
WASHINGTON, DC			20005		2839	

DATE MAILED: 10/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be writted and the state of this communication.  Extensions of time may be writted and and and and and and and and and an			r						
Examiner Chandrika Prasad  2839  -The MAILING DATE of this communication appears on the cover sheet with the correspondence address −  Period for Reply  A SHORTENICS TATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  THE MAILING DATE OF THIS COMMUNICATION.  Editentions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filled after SIX (9) MONTHS from the mailing date of this communication.  If the period for reply specified above is less than thinty (30) days, a reply within the statistory millitum of thirty (20) days will be conditioned to reply specified above is less than thirty (30) days, a reply within the statistory millitum of thirty (20) days will be conditioned to reply specified above is less than thirty (30) days, a reply within the statistory millitum of thirty (20) days will be conditioned after SIX (9). In one sent, however, may a reply be timely filled and state SIX (9). In one sent, however, may a reply to eliminate the condition of the state of this communication, even if timely filled, may reduce any sentence period for reply specified above is a sentence period for reply will by statute, cause the application become ABANDOBED (18 U S C, § 13):  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any sentence period in a condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1,34-39 and 41 is/are pending in the application.  4a) Of the above claim(s) is/are allowed.  6) Claim(s) 1,34-39 and 41 is/are rejected.  7) Claim(s) is/are objected to extriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) cacepted or b) objected to by the Examiner.  11) The proposed drawings are required in reply to this		Application No.	Applicant(s)						
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14) Action and depropriate mode of a plain for demonstration right, under 35 LLCC S 140(a) (to a provisional application)	application from the Internation	al Bureau (PCT Rule 17.2(a)).	•						
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).	14) Acknowledgment is made of a claim for do	mestic priority under 35 U.S.C.	§ 119(e) (to a provisional application).						
a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.	a)  The translation of the foreign languag	je provisional application has b	een received.						

U.S. Patent and Trademark Office PTOL-326 (Rev. 04-01)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

Attachment(s)

6) Other:

Interview Summary (PTO-413) Paper No(s).

Notice of Informal Patent Application (PTO-152)

Application/Control Number: 09/924,606

Art Unit: 2839

### **DETAILED ACTION**

#### Election/Restrictions

1. Applicant's election without traverse of Species I in Paper No. 5 is acknowledged.

### Specification

- 2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
- 3. The disclosure is objected to because of the following informalities: Page 18, line 19 ".n²" should be deleted.

Appropriate correction is required.

## Claim Rejections - 35 USC § 112

- 4. The following is a quotation of the second paragraph of 35 U.S.C. 112:
  - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 5. Claim 41 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The last paragraph of the claim is not clear. What operational conditions are being referred to?

# Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

Application/Control Number: 09/924,606

Art Unit: 2839

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 34-39 and 41are rejected under 35 U.S.C. 102(e) as being anticipated by Laor et al.

Laor (Figure 4) shows an optical switch 10 having a plurality of switch cells with n (4) inputs and m (4) outputs, a substrate 16 of size larger than the total switch size, first & second mirrors 22, 32 parallel to each other and perpendicular to the substrate, an optical unit providing a plurality of paths inclined to the mirrors for n inputs and m outputs and each cell having a movable mirror 74. The paths guide lights from a plurality of input ports to a plurality of output ports. All optical paths from input port to output ports are equal thus providing optical losses to be equal. The reflecting mirrors 22, 32 are outside the optical paths.

#### Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Okayama et al., Daneman et al., and Zang et al. are also of interest.

### **Contact Information**

9. Any correspondence to this action may be mailed to:

Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450

Hand-delivered responses should be brought to:

Crystal Plaza 4, Fourth Floor (receptionist)
2201 South Clark Place, Arlington, Virginia

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chandrika Prasad whose telephone number is (703) 308-0977.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild, can be reached at (703) 308-2710. The fax number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or processing should be directed to the Group receptionist whose telephone number is (703) 308-1782.

Chandrika Prasad Primary examiner October 10, 2003